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EXAMINER	
VETTER, DANIEL	
ART UNIT	PAPER NUMBER
3628	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/520,115	FAVOREL ET AL.	
	Examiner	Art Unit	
	DANIEL P. VETTER	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of the Claims

1. Claims 11-30 were previously pending in this application. Claims 11-20 and 23-25 were amended in the reply filed August 27, 2008. Claims 11-30 are currently pending in this application.

Response to Arguments

2. Applicant's amendments to the claims overcome the rejections made under §§ 101 and 112, second paragraph, and these are withdrawn.

3. Applicant's amendments to claims 11-20 do not remedy the lack of support in the written description under § 112, first paragraph (see rejection below). Accordingly, this rejection is maintained.

4. Applicant's arguments filed with respect to the rejections made under § 103(a) have been fully considered but they are not persuasive.

a. Applicant argues that Boise is not sufficient to teach determining a satisfaction value. Remarks, page 10. Examiner respectfully disagrees. The passenger approval process in Boise is sufficient to teach the broadly recited "satisfaction value." Moreover, the claims do not limit the origin of the preferences or the initial determination, and accordingly read upon a system, as in Boise, wherein the passenger determines the acceptability. Similarly, the "satisfaction value being a function of the agreement with the placement criteria" reads upon a passenger's determination that a particular seat sufficiently matches the requested criteria.

b. Applicant also argues that Boise does not teach assigning weights to criteria. Remarks, page 10. However, Boise II was relied upon to supply this teaching. Boise II teaches "the user's preference ordering or weights with each factor" (¶ 0053).

c. Applicant further argues that Boise does not teach priority assignments for customers. Remarks, page 11. Examiner respectfully disagrees. Applicant's

position is that the classes in Boise cannot be considered a "priority" for the purposes of the claimed invention, and neither can "permanent" vs. "flexible" seat assignments. Applicant does not provide sufficient reasoned analysis to support either. Why is first class not a priority over business and coach? "Boise ¶ 0038 does discuss flexible seating assignment, however this value is binary (i.e. flexible or not flexible) and therefore not a priority." Remarks, page 11. For what reason can a binary distinction not be considered a priority?

d. Applicant's argument that Boise does not teach repeating the allocation steps is unpersuasive. Boise plainly teaches that passengers are reassigned different seats as each new request is received (¶ 0028).

e. The arguments with respect to the Walker reference are also unpersuasive. Applicant argues that Walker does not teach reassigning in decreasing order of customer priority, rather it teaches that upgrade offers begin with customers requesting the highest categories of service. Remarks, page 12. The alleged distinction is specious. When an upgrade offer is accepted, the customer is reassigned a new seat. Moreover, while Walker teaches proceeding with the highest requested categories first, it is still the customers who requested the highest categories that are thus prioritized. It is in the manner that Walker's process reassigns seats in decreasing order of customer priority. Accordingly, examiner maintains that Walker remedies the admitted deficiencies of Boise.

f. Applicant's argues that the references are not properly combined because the "technical field of computer reservation system comprises disparate technical application which cannot be assimilated." Remarks, page 13. Examiner respectfully disagrees. Reservations and seat allocation cover overlapping subject matter. The references are sufficiently linked in both technical field and their relation to the claimed subject matter to be properly combined as set forth in the rejections below.

Claim Objections

5. Claim 24 is objected to because of the following informalities: "at least one attribute of inclusion in group of available seats" appears to be a grammatical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

8. Claims 11-20 are directed to a "computer program stored on a computer readable storage medium" that "comprises allocation instructions for, when it is executed by a computer" the seat allocation process of the present invention. The originally filed disclosure provides no support for such a program. Paragraph 0032 discloses a storage means (containing a database) and a processor, however there is not support for a "program" with "allocation instructions" that the disclosed processor intended to execute. Accordingly the specification does not convey that such a program was part of the invention, and claims 11-20 are rejected under § 112, first paragraph.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 12 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claims 12 and 16 recite "instructions to repeat allocation instruction steps," however it is unclear if this refers to any or rather all of the previously recited allocation instruction steps. Accordingly, the scope of the claim is vague and the public is not properly apprised as to what would constitute infringement.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claims 11, 12, 14-19, 21, 22, and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boies, et al., U.S. Pat. No. 2002/0082878 (Reference A of the PTO-892 part of paper no. 20080513) in view of Walker, et al., U.S. Pat. No. 6,112,185 (Reference B of the PTO-892 part of paper no. 20080513).

14. As per claim 11, Boies teaches a computer program for the allocation of seats to customers in a computerized reservation system, characterized by the fact that it comprises allocation instructions for, when it is executed by a computer (¶ 0031): accessing a database of storage of data relative to placement criteria (¶ 0038); extracting from said database the data corresponding to each customer (¶ 0038); determining a satisfaction value of the customer for a seat, said satisfaction value being a function of the agreement with the placement criteria (¶ 0046); accessing with a database for storage of a level of priority assigned to each customer (¶ 0038); extracting from each database the level of priority corresponding to each customer (¶ 0038); for the customer, seeking the available seat having the highest satisfaction value and storing an identification data of said seat in a data table assigned to the customers (¶ 0046); repetition of the preceding step for each customer, to effect an allocation of seats to the customers (¶ 0038). Boies does not explicitly teach that the seeking step is for the customer having the highest level of priority, and that the repetition for each

customer is by decreasing order of priority level; which are taught by Walker (col 6, lines 6-11). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Walker because this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

15. As per claim 21, Boies teaches a process for the allocation of seats to customers, usable with a computerized reservation system, characterized by the fact that it comprises the following allocation steps: assignment, in a database, to each customer, of data relative to placement criteria (¶ 0038); determination of a value of satisfaction of the customer for a seat as a function of agreement with the placement criteria (¶ 0046), assignment, in a database, to each customer, of a priority level (¶ 0038), allocation by an allocation server, to each customer, of the available seat having the maximum satisfaction value (¶ 0046). Boies does not explicitly teach that the allocation is by decreasing order of level of priority, which is taught by Walker (col 6, lines 6-11). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Walker because this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

16. As per claims 12 and 22, Boies in view of Walker teaches the program of claim 11 and process of claim 21 as described above. Boies further teaches instructions to repeat allocation instruction steps at each new reservation or cancellation of a seat—and steps of allocation are repeated upon each new reservation or cancellation of a seat (¶ 0028).

17. As per claims 14 and 24, Boies in view of Walker teaches the program of claim 11 and process of claim 21 as described above. Boies further teaches instructions to

assign to each seat an inclusion attribute in a group of available seats so as to define the seats available for allocation—and there is assigned to each seat at least one attribute of inclusion in group of available seats, for the definition of the seats available for allocation (¶ 0021).

18. As per claims 15 and 25, Boies in view of Walker teaches the program of claim 14 and process of claim 24 as described above. Boies further teaches instructions to exclude from the group of available seats, seats whose reservation has been confirmed by the customer—and that there is excluded from the group of available seats, seats whose reservation is confirmed by the customer (¶ 0009).

19. As per claims 16 and 26, Boies in view of Walker teaches the program of claim 15 and process of claim 25 as described above. Boies further teaches instructions to repeat allocation instruction steps for customers whose seat has a confirmed reservation to seek a possible better seat—and for customers whose seat has a confirmed reservation, there is carried out a search procedure for a possible better seat by the steps of allocation (¶ 0046).

20. As per claims 17 and 27, Boies in view of Walker teaches the program of claim 11 and process of claim 21 as described above. Boies further teaches the placement criteria comprise data as to region or location of the seats desired by the customer—and that the placement criteria comprise data as to zone or location of the seats desired by the customer (¶ 0042).

21. As per claims 18 and 28, Boies in view of Walker teaches the program of claim 11 and process of claim 21 as described above. Boies further teaches the placement criteria comprise an adjacency criterion of the customer to at least one other customer (¶ 0039).

22. As per claims 19 and 29, Boies in view of Walker teaches the program of claim 11 and process of claim 21 as described above. Boies further teaches instructions to assign, and that there is assigned, to each placement criterion an attribute defining it either as mandatory or as preferred (¶¶ 0041-43).

23. Claims 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boies, et al. in view of Walker, et al. as applied to claims 11 and 21 above, further in view of Official Notice considered admitted prior art.

24. As per claims 13 and 23, Boies in view of Walker teaches the program of claim 11 and process of claim 21 as described above. Boies in view of Walker does not teach instructions to create a waiting list defined by customers remaining after assignment of all the available seats—and if the available seats are all assigned, placement of remaining customers on the waiting list. Official Notice was previously taken and not challenged that waiting lists are old and well-known in the reservations art. This finding is considered admitted prior art. It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above finding of Official Notice, for example, so that a list of potential passengers in their respective order of priority can be easily accessed in the event that another seat becomes available. Moreover, this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

25. Claims 20 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boies, et al. in view of Walker, et al. as applied to claims 11 and 21 above, further in view of Boies, et al., U.S. Pat. Pub. 2002/0173978 (Reference C of the PTO-892 part of paper no. 20080513) ("Boies II").

26. As per claims 13 and 23, Boies in view of Walker teaches the program of claim 11 and process of claim 21 as described above. Boies in view of Walker does not teach instructions to assign, and that there is assigned, to each placement criterion an attribute of weight for the determination of the satisfaction values; which is taught by Boies II (¶ 0053). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Boies II into Boies in view of Walker because this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did

separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

Conclusion

27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL P. VETTER whose telephone number is (571)270-1366. The examiner can normally be reached on Monday through Thursday from 8am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W Hayes/
Supervisory Patent Examiner, Art Unit 3628